

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE: BEXTRA AND CELEBREX
MARKETING SALES PRACTICES AND
PRODUCT LIABILITY LITIGATION,

CASE NO. 05-1699 CRB

MDL No. 1699 CRB

**ORDER GRANTING MOTION TO
VACATE DISMISSAL**

This document relates to:

Rick Brewer, 05-5356 CRB

On August 1, 2007, the Court issued an Order to Show Cause to plaintiff in the above matter to show cause why his counsel's motion to withdraw should not be granted and his case dismissed for a failure to prosecute. The Court set a response deadline of August 23, 2007. Plaintiff did not file a response and so on September 7, 2007 the Court granted the motion to withdraw and dismissed plaintiff's claims with prejudice.

By letter filed October 1, 2007, plaintiff advised the Court that he had just received the Order to Show Cause because he had moved and his (now former) counsel did not have his current address. He also indicated that he wanted to continue to prosecute his claims. Three weeks later he filed a motion pursuant to Federal Rule of Civil Procedure 60(b)(6) to vacate the dismissal. His motion is supported by a declaration from his counsel who attests that plaintiff has complied with PTO 6 and his discovery obligations and that counsel did, in

1 fact, send the Order To Show Cause to plaintiff's former address.

2 As plaintiff has brought his motion for relief from the dismissal "within a reasonable
3 time," indeed, nearly immediately, and as he has in fact complied with all the orders of the
4 Court of which he was aware, his motion to vacate the dismissal is GRANTED. Plaintiff is
5 warned, however, that it is his responsibility to notify the Court and defendants' counsel, and
6 his new counsel should he retain such counsel, of any future change of address as soon as or
7 before he moves. Plaintiff is also responsible for complying with all future court orders. The
8 Court encourages plaintiff to seek new counsel.

9 **IT IS SO ORDERED.**

10 Dated: October 30, 2007



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12 CHARLES R. BREYER
13 UNITED STATES DISTRICT JUDGE
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